

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte TORBJORN ALBERTSSON and THOMAS CARLSTROM

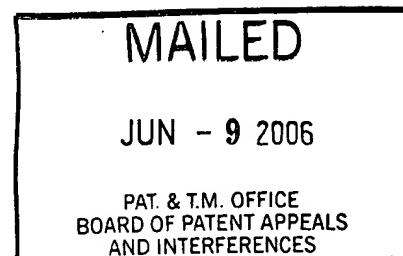
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Application No. 09/902,536

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences on May 30, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner (first Order mailed December 20, 2005). The matters requiring attention prior to docketing are identified below.

A review of the file indicates that the appeal brief filed May 1, 2006 does not fully comply with 37 CFR § 41.37(c).

37 CFR § 41.37(c) states in part:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need

only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

In the appeal brief filed May 1, 2006, the "Summary of claimed subject matter" does not map to the independent claim as set forth in 34 CFR § 41.37(c)(1)(v).

Also, the Prior Art of Record section is missing from the examiner's answer mailed July 28, 2004. The examiner must provide the Prior Art of Record section and the listing of references in a revised examiner's answer.

In addition, on August 18, 2005, the examiner filed a response to the reply brief. This response states that the reply brief was filed on December 29, 2004. There is no reply brief in the record that was filed on December 29, 2004. It is noted that a reply brief was filed on February 28, 2005. The record is

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unclear as to whether the response gave an erroneous date or whether there is a missing reply brief. Appropriate correction is required.

Accordingly, it is

ORDERED that this application be returned to the examiner for: 1) hold the appeal brief of May 1, 2006 defective; 2) request appellants to file a supplemental appeal brief in compliance with 37 CFR § 41.37; 3) entry of the Prior Art of Record section in a revised examiner's answer; 4) clarification of the response to the reply brief filed on August 18, 2005; and 5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

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